

<div>CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795</div> <div>STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 8/25/04 Item: 3.b.	
	File Number CP04-065	
	Application Type Conditional Use Permit	
	Council District 6	
	Planning Area Willow Glen	
	Assessor's Parcel Number(s) West of 284-43-008	
PROJECT DESCRIPTION		
Completed by: Ed Schreiner		
Location: Southwest corner of Moorpark Avenue and Leigh Avenue (San Jose City College)		
Gross Acreage: 0.1 Net Acreage: 0.1 Net Density: N/A		
Existing Zoning: R-1-8 Residential Existing Use: San Jose City College		
Proposed Zoning: R-1-8 Residential Proposed Use: To allow 3 wireless communications antennas mounted on an existing 111-foot high stadium light pole and associated 144 square foot equipment shelter.		
GENERAL PLAN		
Completed by: ES		
Land Use/Transportation Diagram Designation Public/Quasi-Public		
Project Conformance: [x] Yes [] No [x] See Analysis and Recommendations		
SURROUNDING LAND USES AND ZONING		
Completed by: ES		
North: Interstate 280 and single –family detached residential R-1-8 Residential		
East: Apartments RM Multiple Residence		
South: Single-family detached residential R-1-8 Residential		
West: Offices CP Commercial Pedestrian		
Completed by: ES		
[] Environmental Impact Report found complete [] Negative Declaration circulated on _____ [] Negative Declaration adopted on _____		
[x] Exempt [] Environmental Review Incomplete		
FILE HISTORY		
Completed by: ES		
Annexation Title: Maypark No. 2 Date: March 26, 1954		
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
[] Approval Date: _____ Approved by: _____ [x] Approval with Conditions [] Action [] Denial [X] Recommendation		
OWNER	APPLICANT	DEVELOPER
Michael Hill, Vice Chancellor San Jose City College 2100 Moorpark Avenue San Jose, CA 95128-2799	Mark Gagne Peacock Associates 5855 Doyle Drive, Suite 108 Emeryville, CA 94608	Kersten Rutherford Metro PCS 1080 Marina Village Parkway Alameda, CA 94501

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: FLB

Department of Public Works

None received.

Other Departments and Agencies

Fire Department memorandum dated July 15, 2004

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

On June 29, 2004, the applicant, San Jose City College District, submitted a Conditional Use Permit application requesting three panel wireless communications antennas mounted on an existing 111 foot tall stadium light pole and an associated 144 square foot equipment shelter on a 53.25 gross acre site. The subject site is located on the southwest corner of Moorpark Avenue and Leigh Avenue. The site is the San Jose City College campus. Pursuant to Table 20-50 of the San José Municipal Code, issuance of a Conditional Use Permit is required for the installation of a wireless communication antenna in the R-1-8 Residential Zoning District.

The San Jose City College Campus is flat and generally rectangular in shape. The stadium light pole that the antennas are proposed to be mounted is one of a number of stadium light poles that surrounds the City College's football field. The football field is on the south-central side of the campus and is located approximately 40 feet north of Kingman Drive. Surrounding uses include Interstate 280 to the north with single-family residential beyond, apartments to the east, office buildings the west, and single-family residences across Kingman Dr. to the south.

In 1996, San José planning staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health hazard. Staff found that the low-frequency, low energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from antennas.

Project Description

The proposed panel wireless communication antennas are of a rectangular design, with a maximum height of 4 feet, width of 1-½ feet and depth of 5 inches. The panels are mounted at a height of 87 feet, 10 inches on a stadium light pole that is 111 feet in height. The ancillary equipment is located underneath the bleachers adjacent to the stadium light pole in a fence enclosure measuring 8 feet by 18 feet.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The proposed project is consistent with this section in that the project involves a minor expansion that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public in that wireless communication antennas are considered to be in conformance with General Plan Policies provided that the proposal conforms to City Council Policy 6-20, Land Use Policy for Wireless Communication Facilities.

ANALYSIS

The key issues analyzed for the proposed project are conformance with the following: (1) the City of San José Zoning Ordinance and (2) the City Council Policy 6-20 for Wireless Communication Facilities. Additional issues evaluated as part of Staff's review include noise generated by the proposed equipment.

Conformance to the Zoning Ordinance

Although San Jose City College is not subject to the City of San Jose's permit authority, any private uses on the College's property are subject to City permit jurisdiction. Table 20-60 of the Zoning Ordinance lists the setbacks for all structures within the R-1-8 Multiple Residence Zoning District. The proposed locations for the antennas and associated equipment enclosure meet all applicable setbacks of the R-1-8 District.

Section 20.80.1900 of the Municipal Code regulates height of wireless communication antennas. Section 20.80.1900 (B) states that "the maximum height of a building mounted wireless communication antenna may be increased over the required maximum height of the zoning district in which it is located provided that all of the following criteria are met:

2. For buildings or structures greater than sixty feet in height:
 - a. The antenna and/or related building alterations project no more than ten feet above the building surface on which it is located; or the antenna and/or related building alterations project no more than ten feet plus an additional foot of height for every ten feet the antenna is set back from the building parapet to a maximum height of fifteen feet; and
 - b. The antenna is architecturally integrated into the building and all ancillary equipment is adequately screened; or
 - c. The antenna does not add to the visual clutter of the building or structure."

The proposed structure-mounted antennas do not extend above the existing 111-foot height of the stadium light pole. The antennas are of similar color and materials as the existing light pole and will not add to the visual clutter of the pole. Based on this analysis, staff concludes that the proposal conforms to the requirements of the Zoning Code.

Conformance to City Council Policy 6-20 for Wireless Communications Facilities

The proposed structure-mounted antennas must comply with the intent of the City Council Policy (attached). The Policy issues for this proposal include visual impacts and separation from residential uses.

Visual Impacts

The Policy indicates that mounting antennas on existing structures is preferable to locating an antenna on a new monopole and that the antenna should be architecturally integrated with the structure. Structure mounted antennas have less visual impact than monopoles. The antennas will be flush-mounted to an existing light pole and will be painted to match the pole.

The proposed 144 square foot equipment shelter would be located underneath the bleachers for the football field and would be screened from view by the bleachers. The shelter is surrounded by chain link fence, similar to the existing conditions currently under the bleachers.

Setbacks from Residential Use

The Policy indicates that structure mounted antennas should be located a minimum of 35 feet horizontally from any property with single-family residential uses. The facility is located approximately 70 feet from the closest single-family property on the south side of Kingman Drive.

PUBLIC OUTREACH

A notice of the public hearing was mailed to all owners and tenants of property within 500 feet of the project site. Staff has been available to discuss the project with members of the public. No comments on the project have been received to date.

CONCLUSION

Based on this analysis, staff concludes that the proposed wireless facility conforms to the requirements of City Council Policy 6-20 and will be compatible with the surrounding neighborhood.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following facts, findings, and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The subject site where the antennas and associated equipment enclosure is proposed has a designation of Public/Quasi Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The proposed project is consistent with this section in that the project involves additions to existing structures that will not result in an increase of

more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

4. The proposed panel wireless communication antennas are of a rectangular design, with a maximum height of 4 feet, length of 1 ½ feet and width of 5 inches. The panels are mounted at a height of 87 feet, 10 inches on a stadium light pole that is 111 feet in height. Underneath the bleachers adjacent to the stadium light pole is a fence enclosure measuring 8 feet by 18 feet. Associated equipment cabinets are proposed to occupy the enclosure area.
5. The proposed project will not displace any existing parking at the site.
6. The Zoning Ordinance allows wireless antennas to exceed the maximum height allowed in a particular zoning district when they are attached to an existing building/structure if the following conditions are met:
 - a. The antenna and/or related building alterations project no more than ten feet above the building surface on which it is located; or the antenna and/or related building alterations project no more than ten feet plus an additional foot of height for every ten feet the antenna is set back from the building parapet to a maximum height of fifteen feet; and
 - b. The antenna is architecturally integrated into the building and all ancillary equipment is adequately screened; or
 - c. The antenna does not add to the visual clutter of the building or structure. The proposed structure-mounted antennas do not extend above the existing height of the stadium light pole. The antennas are of similar color and materials to the existing light pole and the associated equipment is adequately screened beneath the adjacent bleachers. The antennas will not add to the visual clutter of the light pole. Therefore, the proposal conforms to the maximum height limitation specified in the Zoning Ordinance
7. The City Council Land Use Policy for Wireless Communications Facilities is applicable to this application.
8. The antennas will be of similar design and color to the existing light pole and will not add any visual intrusion to the existing stadium light pole. The proposed 144 square foot equipment shelter would be located underneath the bleachers for the football field and would be screened from view by the bleachers. The shelter is surrounded by chain link fence, similar to the existing conditions currently under the bleachers.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram designation and relevant urban design policies.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project complies with the applicable criteria of the City Council Land Use Policy for Wireless Communications Facilities, in that the applicant has provided wireless antennas that are in conformance with the Zoning Ordinance and are of a stealth design.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José -Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José -Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Metro PCS Inc. City College San Jose" for Metro PCS dated April 5, 2004 and last revised on May 13, 2004, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. The applicant must abate any such nuisance immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Lighting.** This permit allows no new on-site exterior lighting.
6. **Noise.** The sound level generated on this site shall not exceed 55 dba DNL at any property line adjacent to a property used for residential purposes and shall not exceed 60 dba DNL at any adjacent property line of property used for commercial or other non-residential purposes.
7. **Compliance With Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
8. **Colors and Materials.** All colors and materials are to be as specified on the approved plan set.
9. **Fire Department Comments.** The applicant is to comply with all Fire Department comments at the plan review stage.
10. **Hazardous Materials.** The applicant shall obtain all necessary Hazardous Materials Permits and clearances from the City of San José Hazardous Materials Division (408-277-4659).
11. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP04-065, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Conformance.* A project construction conformance review by the Planning

Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

12. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
14. **Equipment Removal.** The applicant shall remove the wireless communications antennas and associated equipment enclosure from the site at such time as the equipment is no longer in use, or the permit has expired.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to one year, provided that no more than two (2) such term extensions may be approved. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

ES:ll